

CSD 1001A [11/15/04]

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UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF CALIFORNIA

325 West "F" Street, San Diego, California 92101-6991

In Re

TADEO and ELIZABETH ARCINUE

Debtor.

BANKRUPTCY NO. 10-02821-LT13

Date of Hearing: 10/19/2010

Time of Hearing: 3:00 P. M.

Name of Judge: Hon. Margaret M. Mann

ORDER ON

Debtor's Motion to Value Residence & Avoid Second Trust Deed

IT IS ORDERED THAT the relief sought as set forth on the continuation pages attached and numbered two (2) through 3 with exhibits, if any, for a total of 3 pages, is granted. Motion/Application Docket Entry No. 27

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DATED: October 21, 2010

Judge, United States Bankruptcy Court

Signature by the attorney constitutes a certification under
 Fed. R. of Bankr. P. 9011 that the relief in the order is the
 relief granted by the court.

Submitted by:

Evelyn Johnson, Attorney at Law
 (Firm name)

By: /s/ Evelyn JohnsonAttorney for ☒ Movant ☐ Respondent

ORDER ON DEBTOR'S MOTION TO VALUE RESIDENCE & AVOID SECOND TRUST DEED

DEBTOR: Tadeo & Elizabeth Arcinue

CASE NO: 10-02821-LT13

A Hearing on the motion by Debtors TADEO SIMON M. ARCINUE and ELIZABETH G. ARCINUE (hereafter "Debtors") to evaluate and strip junior lien held by GMAC MORTGAGE LLC, fka Homecomings Financial, "Creditor" herein, and/or its successors and assigns was set for Hearing on October 19, 2010 at 3:00 P. M. in Department 1 of the above referenced Court. Lienholder having failed to file timely opposition to Debtors' motion, the Court hereby orders as follows:

The Court having reviewed the motion, considered any relevant evidence and good cause appearing therefore, noting that service was properly made and no response having been received, based upon its findings of fact and conclusions of law the Court rules as follows:

1. Debtors' motion is granted.
2. The real property located at 10516 Amantha Avenue, San Diego, CA 92126, County of San Diego is valued at \$350,000.00 based on the appraisal previously submitted with the underlying motion.
3. The claim owned/serviced by Creditor and/or its successors and assigns, in the amount of \$109,428.00 is deemed not collateralized, as there is no equity in the Subject Property above and beyond the amount owed to the first trust deed holder, CARRINGTON MORTGAGE SERVICES LLC, in the amount of \$407,538.28.
4. The lien of \$109,428.00 owned/serviced by Creditor and/or its successors and assigns as described above, is determined to be completely unsecured and its claim shall be treated as unsecured by the Chapter 13 Trustee.
5. Upon completion of all plan payments and entry of discharge in this case pursuant to 11 U.S.C. §1328, Creditor's recorded lien shall be extinguished for all purposes as further provided below and shall not constitute an encumbrance on the real property located at 10516 Amantha Avenue, San Diego, California 92126.
6. Upon entry of a discharge in Debtors' Chapter 13 case, the Lien shall be void for all purposes, and upon application by Debtors, the Court will enter an appropriate form of judgment voiding the Lien, in the form attached hereto as Exhibit "A".
7. If Debtors' Chapter 13 case is dismissed or converted to one under another Chapter under Title 11 before Debtors obtain a discharge, this order shall cease to be effective and the Lien shall remain valid.

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Attorney for Debtors

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION**

| | | |
|---------------------------------------|---|-------------------------------------|
| In re: |) | Case No.: 10-02821-LT13 |
| |) | |
| TADEO & ELIZABETH ARCINUE, |) | Chapter 13 |
| |) | |
| Debtor |) | JUDGMENT VOIDING JUNIOR LIEN |
| |) | ON DEBTORS' REAL PROPERTY |
| |) | |
| _____ |) | |

On _____, 2010, this court entered an ORDER ON DEBTORS' MOTION TO EVALUATE REAL PROPERTY AND FOR THE PURPOSE OF LIEN STRIPPING against certain property of Debtors for purposes of this Chapter 13 case. That order was subject to being set aside until Debtors obtained a discharge in this Chapter 13 case. Debtors having obtained that discharge, the court now therefore enters the following judgment.

The lien of GMAC MORTGAGE LLC, fka Homecomings Financial and/or its successors and assigns regarding the property commonly known as 10516 Amantha Avenue, San Diego, California 92126 is hereby determined to be entirely, permanently and for all purposes void and unenforceable.

Dated: _____
Judge, United States Bankruptcy Court

EXHIBIT "A"

ORDER ON DEBTOR'S MOTION TO VALUE RESIDENCE & AVOID SECOND TRUST DEED

DEBTOR: Tadeo & Elizabeth Arcinue

CASE NO: 10-02821-LT13
